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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,959	12/18/2001	Dave Chandler	020824-000910US	3437

20350 7590 06/02/2004

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EXAMINER

ST CYR, DANIEL

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/024,959

Applicant(s)

CHANDLER ET AL. 

Examiner

Daniel St.Cyr

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Receipt is acknowledged of the amendment filed 2/05/04 in which claims 1, 3-19 were canceled and claims 26-30 were added.

#### *Claim Rejections - 35 USC § 103*

2. Claims 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comisar et al, US Patent No. 3,944,788, in view of Brigida et al, US Patent No. 5,313,051.

Comisar et al disclose a voting recording apparatus comprising: a local control processor and storage device 10 having an associated control console 11; a precinct tally printer 13; a communication interface 16; a communication link, telephone line 17; a conventional punched-card vote recorder 20; a voter-terminal electronic interface 21; an electronic interface 21; a generally flat base 30 on which is mounted a flat plate 31; a matrix of holes 32 therein arranged in rows and columns; a multi-page ballot booklet, only one page of which is shown at 33, the pages are usually hinged separately, so that, as each page of the booklet is turned, a different column of holes in the matrix 32 is uncovered; a hand-held stylus 34; and a ballot card 36. (see figures 1, 2; col. 4, line 6+ and col. 5, line 7+).

Comisar et al fail to disclose using a first antenna within the printed media and a second antenna in the stylus.

Brigida et al disclose a touch entry stylus 202 having antenna 806 and 818 and an overlay assembly 704 having an antenna 702.

In view of Brigida et al's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the teachings of Comisar et al to include antenna elements in the overlay and in the stylus to facilitate communication between the

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stylus and the device. Such modification would make the system more effective by providing wireless communication means and would facilitate voters' interaction with the device.

Therefore, it would have been an obvious extension as taught by Comisar et al.

Re claim 23, the language selection is not disclosed

However, it is common practice in the art for voting machines to include a plurality of languages wherein voters are provided with means to select their preferred language.

It would have been obvious for an artisan at the invention was made to include the well-known concept into the system so that the system is operational in many different language. Such modification would make the system more user friendly and more convenient wherein people with different background could effectively operate the machine. Therefore, it would have been an obvious extension within an ordinary skill in the art.

Re 26-30, with regard to some of the details, such being capable of automatically activated, having a record vote button, an LCD display, etc., these limitations fall within the engineering design choice, failing to provide any unexpected results. It would have been obvious for an artisan to program (make it capable) an electronic voting device to automatically detect pages from a multi-page ballot so as to correctly record each vote selection, to include a vote record button so as to execute each selected choice, and using an LCD to display the choices and interacting with users. Therefore, it would have been an obvious extension as taught by Comisar et al as modified by Brigida et al.

### ***Response to Arguments***

3. Applicant's arguments filed 2/05/04 have been fully considered but they are not persuasive. (see examiner remarks).

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4. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

5. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is generally known that wireless connections are more convenient and more user friendly, they do not require specific orientation nor contact for communicating information, which makes such communication more effective. Furthermore, close range wireless communications are very effective since there are no interferences that could distort the signals.

The applicant's arguments are not persuasive. Refer to the rejection above.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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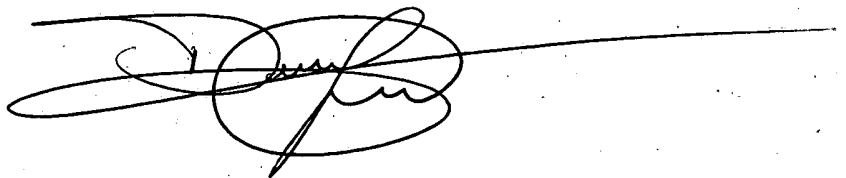
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr  
Primary Examiner  
Art Unit 2876

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.